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SUBJECT: DOMINICAN REPUBLIC: CBI BENEFITS FOR THE 2005
CONGRESSIONAL REPORT

REF: SECSTATE 188288

11. The Following information is keyed to reftel questions.

WTO and Free Trade Commitments

12. The Dominican Republic signed the Central American Free Trade Agreement (DR-CAFTA) with the United States on August 5, 2004. Ratification of the agreement was completed in the Dominican Congress in September of 2005. Inclusion of the Dominican Republic in CAFTA expands the trade coverage of the agreement by some 40 percent, creating a free market for U.S. goods and services that would become the 2nd largest U.S. export market in Latin America.

13. Under DR-CAFTA the Dominican Republic commits to undertake needed reforms to alleviate many of the systemic problems in areas including customs administration, protection of intellectual property rights, services, investment, government procurement, sanitary and phytosanitary barriers and other non-tariff barriers.

Protection of Intellectual Property Rights

14. While the Dominican Republic has laws with sanctions adequate to protect copyrights and has improved the regulatory framework for patent and trademark protection, United States industry representatives continue to cite lack of IPR enforcement as a major concern. The Dominicans specifically committed in a side letter to CAFTA to make stronger efforts to halt television broadcast piracy, and agreed to report on their efforts in this regard in a quarterly report to USTR. The Dominican government has delivered these quarterly reports on time since January, 2005. The Embassy has noted improved coordination in this regard among various government agencies including the Secretariat of Industry and Commerce, the Attorney General's

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Office, the Patent Office and the Copyright Office. The authorities advised cable television of their legal responsibilities regarding copyright, secured a formal agreement with the operators' association in August, 2005, and in September seized equipment from six operators found to be infringing the laws. The Attorney General's office instituted proceedings against several television broadcasters in the first half of 2005 for infringement of the copyrights of the owners of various U.S. film titles.

15. On three occasions during a twelve-month period during 2004-2005, congressional representatives proposed legislation that would weaken the country's intellectual property laws by reducing penalties for patent violations, by making the granting of compulsory licenses automatic if the government failed to act on an application, and by undercutting data protection for patents. Embassy officers repeatedly expressed USG concern to the congressional leadership about this legislation, which was advocated by domestic pharmaceutical manufacturers. Two of the proposed bills died in Congress without a vote. As of October 2005, the third proposal has been offered in the Senate, but the Embassy understands that there is no support for placing it on the agenda.

Protection of Worker Rights

16. The Dominican Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, are free to organize. Organized labor represents an estimated eight percent of the work force and is divided among four major confederations and a number of independent unions. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the government has not acted on its application within 30 days. In practice, the Dominican government readily facilitates recognition of labor organizations.

17. The government generally respects association rights and places no obstacles to union registration, affiliation, or

the ability to engage in legal strikes. However, enforcement of labor laws is sometimes unreliable, inhibiting employees from freely exercising their rights. The Dominican Republic recognizes the problem and is working to correct shortcomings in enforcement. Unions are independent of the government and generally independent of political parties. The law forbidding companies to fire union organizers or members has at times been enforced selectively, and penalties appear insufficient to deter employers from violating worker rights. Labor unions can and do affiliate freely regionally, and internationally.

¶8. Collective bargaining is legal and must be used in firms in which a union has the support of an absolute majority of the workers. Many of the manufacturers in the Free Trade Zones (FTZs) have voluntary "codes of conduct" that include workers' rights protection clauses. Workers do not always know their rights under these codes.

¶9. The Dominican Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a tripartite (government, employer and worker) national salary committee. Congress may enact minimum wage legislation. There are presently 14 minimum wage scales, set by sector and/or geography, and the minimum monthly salary is approximately USD 119 (3,570 pesos) in the FTZs and USD 164 (4,920 pesos) outside the FTZs.

¶10. The Dominican Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical work week is Monday through Friday plus a half day on Saturday, but longer hours are common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime is mandatory at some firms in the FTZs.

¶11. The Labor Code sets the minimum age for employment at 14 years, and places restrictions on the employment of youths between the ages of 14 and 16. In 2001 the Ministry of Labor and the National Statistics Office reported that 17.7 percent of children ages 5 to 17 years in the Dominican Republic were working. Most of these children work in the informal and agricultural sectors. This information was gathered as part of a survey to establish a baseline for the International Program on the Elimination of Child Labor carried out by the ILO.

----- Preventing Worst Forms of Child Labor -----

¶12. The country ratified ILO Convention 182 on November 15, 2000, and the government has taken a strong stance on the need to eliminate the worst forms of child labor. A national committee on child labor has been established, and it collaborates with the ILO, UNICEF, and several non-governmental organizations. The Dominican Republic has signed a Memorandum of Understanding with the ILO's International Program for the Elimination of Child Labor and is working with the ILO on various programs aimed at phasing out exploitative child labor. This includes the ILO-IPEC Time Bound program on the worst forms of child labor, with an Education Initiative component to improve access to education funded by the U.S. Department of Labor.

----- Counter-Narcotics Efforts -----

¶13. The Dominican Republic is classified as a major transshipment country for narcotics moving from South America into Puerto Rico and the United States. The country has been fully certified as cooperating with U.S. counter-narcotics efforts. The Dominican Republic has met the U.S. counter narcotics certification criteria under the Foreign Assistance Act of 1961.

----- Inter-American Convention Against Corruption -----

¶14. The Dominican Republic has ratified the Inter-American Convention Against Corruption (IACAC). When Leonel Fernandez was elected president in 2004, he made anti-corruption a major theme of his inaugural speech. In April 2005 the President established a Government Ethics and Anti-Corruption Commission. Corruption remains a deep-rooted problem in Dominican society. Corruption and the need for reform are openly and widely discussed.

----- Transparency in Government Procurement -----

¶15. Historically, contracts for large public works, military

equipment, vehicles and other supply contracts are often not subject to competitive bids. The government is in the process of changing this practice. Over the past six months the administration has stopped two large procurements initially negotiated directly -- a package of equipment for the police valued at well over USD 100 million and the acquisition of two coal-fired generating plants to produce 1400 MGWT -- and converted them into tenders instead. The presidency suspended directly negotiated procurement of software valued at between USD 4 and USD 11 million when the new Government Ethics and Anti-Corruption Commission made strenuous objections. As part of a Stand-by Agreement signed with the IMF in early 2005 the Dominican Republic undertook a commitment to pass legislation making government procurement more transparent. The procurement reform legislation has been prepared but not enacted. President Fernandez has a "bridge decree" pending signature since March, 2005; it would direct government officials to resort to open tenders for acquisitions of goods, services, and construction for all purchases above relatively restricted minimum amounts. The Dominican Republic assumed a similar obligation in the CAFTA-DR agreement, which is likely to enter into force in early 2006..

Expropriations

¶16. Dominican expropriation standards have historically been at variance with international norms. Some U.S. investors have outstanding disputes with the Dominican government concerning expropriated land. Property claims make up the majority of expropriation cases. Most, but not all seizures have been for purposes of infrastructure or commercial development. Almost all pre-1996 expropriation claims have been solved, through a mechanism which provides claimants with the opportunity of accepting bonds once claims have been reviewed, confirmed and negotiated.

¶17. The Dominican Republic is a member of the International Center for the Settlement of Investment Disputes. In August 2002, the country ratified the 1958 UN Convention on Arbitral Awards (the New York Convention), thereby recognizing the right of companies to pursue international arbitration.

Government-owned Broadcasters

Government-owned entities do not/not broadcast copyrighted material belonging to U.S. copyright-holders without their express consent.

Bilateral Extradition Treaty

¶18. The Dominican Republic signed a bilateral extradition treaty with the United States in 1909. In the first term of President Fernandez, 1996-2000, the executive revised its procedures for that previously inactive treaty and began to extradite fugitives requested by the United States. Since that time more than 100 fugitives have been extradited, with the active participation of each administration. The country has also signed and ratified the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In accordance with Article 6 of that Convention, each of the offenses listed in Article 3 (1) shall be deemed to be included as an extraditable offense in any extradition treaty existing between the parties.

¶19. The Dominican Supreme Court examines each extradition request closely to assure compliance with its interpretation of the treaty. The executive branch of the government cooperates readily with extradition requests, though presidential decrees authorizing extraditions may include language concerning maximum sentences and stating that remitted fugitives should not be subject to death penalty.

Recognition of International Arbitral Awards

¶20. The Dominican Republic implemented the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) in August of 2002, which provides courts a mechanism to enforce international arbitral awards. A U.S. firm recently resolved out of court a dispute in which it had appealed a verdict from a Dominican lower court inconsistent with the findings of the international arbiter identified in the contract.

General Economic Conditions

¶21. The Dominican economy suffered from major financial

imbalance in 2003-2004, prompted in large part by extensive banking frauds, mismanagement of the economy, and a loss of confidence. The new administration's renegotiation of the IMF standby agreement and appropriate macroeconomic and fiscal management has resulted in better than expected economic performance this year despite a poorly performing electricity sector and high international prices for fuel. GDP growth projections for 2005 are in the 3 to 4 percent range, up from 2 percent in 2004. The Dominican peso has been overvalued on a purchasing power parity basis since late 2004 and relatively stable at less than 30 pesos to the U.S. dollar for much of the year. Market pressures led to adjustments in September and October, resulting in an exchange rate of around 32 to the dollar.

¶22. Inflation was low through much of 2005 but prices for basic items were nevertheless at historical highs. Inflation accelerated in September when it reached an annualized rate of 3.8 percent for the month, the highest rate in nearly two years. The Central Bank cites increased world petroleum prices as possible reasons for the drop in peso value and increased inflation. Congress continues to review fiscal reform measures as the government prepares itself to adjust for the loss of taxes on trade with the implementation of DR-CAFTA.

Access of U.S. Goods to Market

¶23. Dominican consumers show a pronounced preference for U.S. goods. It does not afford preferential treatment to products of any developed country. The country generally provides reasonable and equitable access to U.S. goods and services. With the entry into force of DR-CAFTA, approximately 80 percent of U.S. manufactured goods will immediately enter the country duty free.

Export Subsidies

¶24. The Dominican Republic does not provide direct subsidies to encourage exports. The FTZs are the major source of exports and production in the zones is tax-free and duty-free, in accordance with WTO recommendations.

Trade Policies

¶25. The Dominican Republic had previously signed a trade agreement with the Central American countries; its successful efforts to join negotiations on DR-CAFTA required it to make further reciprocal trade concessions to those countries. The Dominicans have revived formal trading links with Puerto Rico in anticipation of the entry into force of DR-CAFTA.

Economic Development

¶26. President Fernandez's administration has a socially-conscious, market friendly policy and cooperates closely with international donors. The austerity required by the financial crisis and readjustment has been a hinderance in increasing investment in social capital and infrastructure.

Administration of CBERA

¶27. Dominican political and trade authorities have cooperated closely with U.S. authorities concerning the CBERA and other regional trade matters.

¶26. The post officer assigned to responsibility for this reporting is Jehan S. Jones (O: 809-731-4469, F: 809-686-4038, Email: Jonesjs2@state.gov.
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